IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 3393 of 2007()

SC.70/2007 of SESSIONS COURT, MANJERI
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REVN. PETITIONER: PETITIONER

K.R.BIJU AGED 33 YEARS,
S/O. RAJAPPAN,PUTHEN PARAMBIL HOUSE,
THRIKKALANGODE,MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS: RESPONDENT

THE STATE OF KERALA,REPRESENTED BY
PPUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P. RAVEENDRAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.No. 3393 of 2007

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Dated: 04-12-2007

ORDER

The petitioner who was the accused in Crime No. 345 of 2003 of Nilambur Police Station for an offence punishable under Sec. 55(a) of the Abkari Act and which case ended in Annexure A3 refer report challenges the subsequent final report dated 20-5-2006 in which he along with one Sarojini are charge-sheet for the very same offence. The contention of the petitioner is that an attempt was afoot to save Sarojini who was indulging in distillation of illicit arrack and the petitioner who was initially made a scapegoat was, however, not placed for trial as per Annexure A3 refer report, but has been subsequently falsely implicated pursuant to a further investigation conducted without obtaining permission from the court.

2. The learned Public prosecutor, on instructions, submitted that eventhough the case initially ended in a refer report was taken up by the Superintendent of Police, Manjeri who as per proceedings dated 22-12-2005 ordered further investigation and further investigation was conducted after getting permission from the J.f.C.M., Nilambur and it is thereafter that Sarojini and the present

revision petitioner have been charge-sheeted before the court.

3. This Court called for a report from the Addl. Sessions Court, Manjeri. As per letter dated 28-11-2007, the Addl. Sessions Judge, Manjeri has also reported in terms of the submissions made by the learned Public Prosecutor. In the said report it is stated that after the submission of the present charge-sheet dated 25-10-2006, the J.F.C.M. , Nilambur had taken the case on file as C.P. 47 of 2006 and has subsequently committed the case to the court of Session on 18-8-2006 and the case is now pending before the Addl. Sessions Court as S.C. No. 70 of 2007.

4. It is too early to conclude that the revision petitioner has been falsely implicated in the case or that the further investigation has been conducted illegally and in a one-sided manner. The report of the Addl. Sessions Court shows that further investigation in the case was conducted after seeking the permission of the committal Magistrate and that the case was subsequently committed to the Court of Session and made over to the Addl. Sessions Judge for trial. Preliminary hearing of the case under Sec. 227 Cr.P.C. is not over. If so, the petitioner has got an efficacious remedy of pleading for a discharge during the preliminary hearing under Sec. 227 Cr.P.C. Hence, without making any observation on the merits of the case, this

Revision is disposed of giving an opportunity to the revision petitioner to plead for a discharge at the preliminary hearing under Sec. 227 Cr.P.C. before the Addl. Sessions Court.

V. RAMKUMAR,
(JUDGE)

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V. RAMKUMAR, J.

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Crl.R.P.No. 3393 of 2007

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Dated: 04-12-2007

ORDER

V. RAMKUMAR, J.

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Crl.A. NO. 3393 of 2007

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Dated: 20-11-2007

ORDER

Registry may urgently call for a report from the Addl. Sessions Court , Manjeri where the case is pending as S. C. 70 of 2007 as to whether the charge sheet filed by the Edakkara Police in Crime No. 345 of 2003 for an offence punishable under Sec. 55(a) of the Abkari Act was preceded by a refer report and whether there was any further investigation conducted after the submission of the refer report, after seeking formal permission from the Court.

V. RAMKUMAR,

(JUDGE)

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